

# MILPITAS OVERSIGHT BOARD

## TO THE CITY OF MILPITAS ACTING AS THE RDA SUCCESSOR AGENCY

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455 EAST CALAVERAS BOULEVARD, MILPITAS, CA 95035-5479  
GENERAL INFORMATION: 408-586-3000 [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov)

### **MILPITAS OVERSIGHT BOARD MEETING**

Milpitas City Hall Committee Room  
455 E. Calaveras Blvd., Milpitas, CA 95035

#### **MEMBERS:**

*Jane Corpus*  
*Bruce Knopf, Vice Chair*  
*Mike McInerney, Chair*  
*Michael Mendizabal*  
*Althea Polanski*  
*Matthew Tinsley*  
*Glen Williams*

#### **ALTERNATES:**

*Alan Minato*  
  
*Suzanne Carrig*  
*Michael Fogelstrom*

### **DRAFT Minutes of the March 13, 2017 Meeting**

#### **I. CALL TO ORDER, ROLL CALL AND PLEDGE OF ALLEGIANCE**

Chair McInerney called the meeting to order at 2:32 p.m.

#### **ROLL CALL**

**MEMBERS PRESENT:** Jane Corpus, Michael Fogelstrom, Mike McInerney, Mike Mendizabal, Althea Polanski, Matthew Tinsley and Glen Williams

**MEMBERS ABSENT:** None

#### **II. PUBLIC FORUM:**

Mr. Pete McHugh, resident of Milpitas, spoke in support of having a City park located at 230 North Main Street.

#### **III. APPROVAL OF AGENDA**

Moved by Mr. Williams and seconded by Mr. Mendizabal to approve the agenda. The motion passed unanimously.

#### **IV. APPROVAL OF MINUTES: January 23, 2017 Meeting**

Moved by Ms. Polanski and seconded by Mr. Mendizabal to approve the minutes of January 23, 2017 as submitted. The motion passed by the following vote: **AYES:** Corpus, McInerney, Mendizabal, Polanski and Tinsley **NOES:** 0 **ABSENT:** 0 **ABSTAIN:** Fogelstrom and Williams.

#### **V. OLD BUSINESS: None**

## VI. NEW BUSINESS

Consider Resolution Regarding Amendment to the Purchase and Sale Agreement for Property Located at 540 South Abel Street, Milpitas, California, (APN 086-10-025) and Listed on the Long Range Property management Plan as Property No. 5.

1. Alternative A: Resolution No. 85 of the Oversight Board of the Successor Agency of the Former Milpitas Redevelopment Agency Approving Amendment to Purchase Sale Agreement Extending the Due Diligence Period and Closing Date and Reducing Purchase Price for Property Located at 540 S. Abel Street, Milpitas, California, (APN 086-10-025) Between Successor Agency and Rajyoga Meditation & Research Center, a Nonprofit Corporation and Authorizing Issuance of a New RFP Regarding said Property if Closing is Not Affected.
2. Alternative B: Resolution No. 85 of the Oversight Board of the Successor Agency of the Former Milpitas Redevelopment Agency Authorizing the Issuance of a New Request for Proposals for Property Located at 540 S. Abel, Milpitas, California, (APN 086-10-025).

Ms. Montoy, Attorney for the Oversight Board, presented the staff report via teleconference, in which she briefly described the two (2) different resolutions. One resolution approves a request from Rajyoga Medication & Research Center (RMRC) to reduce the purchase price on the property and further extend the due diligence period. She noted that the Board previously authorized an extension of the due diligence period based on the time necessary to pursue the entitlement process and that process has been completed. The Board now has a request that centers on new information about the condition of the property that has not been discussed before. If the Board supports this resolution, the Board must answer the following four questions:

1. Extend the due diligence period to what date.
2. Extend the closing of the sale to what date.
3. Reduce the purchase price by what amount.
4. Require the Buyer to execute the amendment to the Purchase and Sale Agreement on or before what date.

The other resolution denies the request and authorizes the issuance of a new request for proposal.

Chair McNerney added to the staff report by including a new item in the chronology that is in the agenda packet. The new item, which will be item number nine, is that on March 9, 2017 the RMRC signed a clean 2<sup>nd</sup> amendment to the Purchase and Sale agreement which sets the end of the due diligence period as February 1, 2017 and the close of the sale as March 1, 2017.

Mr. Atma Dayal, a representative for the RMRC, explained why the RMRC is asking for relief on the price. He explained that RMRC did not start to evaluate the condition of the property until the Planning Commission on January 13, 2017 had granted RMRC its entitlement to have a residential component on the site. The RMRC then received reports that the roof had failed, that the HVAC system was rusted, and that most of the time the HVAC system did not work. He pointed out that the agenda packet has photographs showing the problem areas with the building's condition. The RMRC also learned for the first time from City staff that the RMRC project would require a fire alarm and sprinkler system as well as some seismic retrofitting.

He stated that the RMRC had obtained two bids to address the building's condition and the safety requirements and that the RMRC is requesting a \$503,000 price reduction to cover the cost estimate from the lower of the two bids which is also included in the agenda packet. He further noted that RMRC as a non-profit has limited resources since it raises funds through donations from its members and that an additional \$503,000 costs places the RMRC in a bind.

Mr. Dayal also pointed out that even with the \$500,000 relief that the RMRC is requesting, the net amount of \$3.5 million would still be the highest bid by approximately \$500,000. When the Board considered proposals in 2015, the County bid \$3 million for the property and the other two bids were substantially lower. He also indicated that if the Board approved the request, the RMRC should be able to close by the end of March 2017.

Board Member Williams asked if the RMRC is willing to stipulate that it has completed its due diligence and that it accepts that its due diligence has been met. Mr. Dayal replied that the RMRC has completed its due diligence and accepts that the due diligence has been met.

Board Member Polanski stated she is leaning towards moving forward with the sale and reducing the price so the Successor Agency may receive the maximum amount for the parcel. In weighing all the issues and in light of all the time and effort the

Buyers, the Successor Agency and the Board have put into this process she believes it makes sense for the Board make every effort to finalize the sale.

Board Member Mendizabal stated he agreed with Board Member Polanski. The Board should just move forward with this Buyer at this time because if the Board issues another Request for Proposal there is time and effort to do that as well. The Board has come this far with this Buyer so the Board should make the effort to finish this up and take care of this sale.

Board Member Williams stated that he sympathizes with the issues that Mr. Dayal raises and that his support of any price reduction must have an agreement that all conditions have been waived at this point and that the deposit becomes non-refundable. He believes, however, that the Seller should not be responsible for the entire requested amount and that he is willing to compromise. He expressed support for reduction somewhere in the area of \$250,000.

Board Member Tinsley expressed his desire that if the parties today agree upon a reduced price, that the Board has firm assurances that RMRC will be unable to return at some future date and ask for a further price reduction. He asked Ms. Montoy if there is a way the Board could guarantee that the price the parties determine today is the final price and that Buyer would actually pay that price. Ms. Montoy responded that if a majority of the Board supports such direction, then she would draft language in the amendment to the Purchase and Sale Agreement (PSA) that would clearly state that the amendment is the last and final amendment to the purchase price as well as to the length of the due diligence period.

The Board recessed for six (6) minutes to give the RMRC representatives an opportunity to confer and develop a response to the ideas expressed so far.

Ms. Ratu Patel, a representative for the RMRC, reiterated the request for a reduction of \$500,000 off of the price that allows RMRC to take possession of the building and move forward. She stated that RMRC's budgetary constraints are such that absorbing this extra \$500,000 would cause an undue burden. She did affirm that with the opportunity for RMRC to complete its due diligence that the \$3.5 million adjusted price will be a firm number. Mr. Atma Dayal further stated that RMRC is not asking for relief from other improvements it plans to make inside the building and that even \$250,000 out of RMRC's budget will place a big burden on the organization.

Chair McNerney proposed consideration of a different principle for the splitting the costs reflected in the requested price reduction. The concept involves the Seller paying for all the costs associated with condition of the structure to include their share of the contractor overhead and dumping fees that amount to roughly \$200,000. The Buyer and Seller would evenly split the remaining costs related to the fire safety and seismic retrofit that Chair McNerney estimated at \$155,000 each for the Buyer and Seller. The Seller would assume the \$155,000 amount in recognition of the value of completing the due diligence period, making the deposit non-refundable, and closing the sale quickly with no further changes to the sale price.

Further discussion ensued between Board Member Williams and Mr. Dayal exploring reactions to different levels of price reductions between \$300,000 and \$355,000. At some point, Mr. Dayal stated that he believed the RMRC might be able to raise an additional \$100,000 to cover a portion of the estimated \$500,000 cost. Mr. Williams then asked if the Board and Successor Agency agreed to a \$400,000 reduction with no further ability to change the sale price, would the RMRC agree that its due diligence period is complete, the deposit becomes non-refundable as of the amendment's execution, and that the sale will close within thirty (30) days? Mr. Dayal said RMRC accepts those terms.

City Manager Williams stated that the Successor Agency also supports these terms and requested that the record reflect that when potential respondents to the RFP were contemplating a bid, the Successor Agency allowed everyone access to the building before a bid was submitted. City staff also knew that a residential component was part of RMRC's bid and City staff assumed that RMRC's architect would know that under the Building Code any change to a residential use requires fire alarms, sprinkler systems and fire-rated walls. The requirements for these fire and earthquake safety features are nothing that the City changed. City staff knows to point them out and City staff is at a loss to understand how the RMRC group became surprised about these requirements in February 2017.

Board Member Mendizabal asked if in approving a price reduction the Board is setting a precedent for the next property if the buyer offers a price, the Board accepts, and then later the Buyer seeks to reduce that price. Ms. Montoy responded that one has to consider all the facts and circumstances in evaluating whether a precedent applies. For the Oversight Board, the next property has no structure on it and for the Abel Street parcel there were no multiple bids close to the RMRC bid that might be concerned about the contemplated price reduction. Furthermore, the Board is considering an amendment that will still generate substantial financial benefit to the taxing entities.

After some discussion between the City Manager, Ms. Montoy, Ms. Patel, and Chair McNerney, there was consensus that Ms. Montoy would deliver the draft amendment to the PSA by March 15, 2017 to the City. The City Attorney would have until March 22, 2017 to review and edit the amendment before submitting it to Ms. Patel. Ms. Patel would have until March

27, 2017 to execute and return the amendment to the City. To allow time to execute the amendment and for the title company to prepare for the sale to close, Chair McInerney recommended the Board use the initial close date of April 30, 2017 that the RMRC proposed in its written request for a price reduction.

Moved by Board Member Williams and seconded by Board Member Polanski to adopt Resolution 85 as amended to approve a price reduction of \$400,000 in the sale of the 540 South Abel Street property to the RMRC conditional upon RMRC waiving all further due diligence and acknowledging that the \$50,000 deposit is now non-refundable along with that the Board and Successor Agency will no longer accept any further amendments or changes to the PSA. The Oversight Board's Attorney will deliver a draft amendment to the Purchase and Sale Agreement to the City no later than March 15, 2017 and the City will submit to the Buyer an amendment for execution no later than March 22, 2017. The Buyer will have until March 27, 2017 to execute and return the amendment to the City. The Board Chair and the Successor Agency have the authority to make non-substantive or less than significant changes to the agreement. The motion passed unanimously.

## **VII. NEXT MEETING**

### **A. Identify Potential Agenda Items.**

1. Consider the item postponed at the Board's February 16, 2016 meeting regarding the disposition of 230 N. Main Street property.

### **B. Set Date and Time.**

It was agreed that the next meeting will be held June 14, 2017 at 1:30 p.m.

## **VIII. MEETING ADJOURNMENT**

Moved by Ms. Polanski and seconded by Mr. Mendizabal, Chair McInerney adjourned the meeting at 3:53 on the consensus of the Board.

Meeting minutes drafted and submitted by  
Barbara Crump, Board Secretary

Approved on June 14, 2017

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Mike McInerney  
Oversight Board Chair

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Barbara Crump  
Oversight Board Secretary

## **OVERSIGHT BOARD STAFF REPORT**

**MEETING DATE: June 14, 2017**

**ITEM V:** Postponed Item: Report from Ad Hoc Committee of Oversight Board Regarding Disposition of 230 N. Main Street, Milpitas, California Listed on the Long Range Property Management Plan as Property No. 3.

### **RECOMMENDED ACTION:**

The Oversight Board Ad Hoc Committee recommends that the Board review this matter and consider two alternative resolutions:

- Alternative A: Resolution No.86 of the Oversight Board of the Successor Agency of the Former Milpitas Redevelopment Agency Approving a Request for Proposals (RFP) for the Sale of Property Located at 230 N. Main Street, Milpitas, California, and listed on the Long Range Property Management Plan as Property No.3.
- Alternative B: Resolution No. 86 of the Oversight Board of the Successor Agency of the Former Milpitas Redevelopment Agency Amending the Long Range Property Management Plan To Authorize Retention of Property No. 3 Located at 230 N. Main Street for Governmental Use.

### **BACKGROUND AND DISCUSSION:**

The Oversight Board last met concerning this property on February 16, 2016. At that meeting, the Board approved postponement of the agenda item until the disposition of all the other properties on the Long Range Property Management Plan had been settled.

In early May 2017, the last remaining of the other properties closed and the Board is now returning to this postponed item.

Since there has been a significant passage of time, the following is further background. On September 14, 2015, the Oversight Board Ad Hoc Committee recommended and the Oversight Board adopted Resolution No. 67 which approved issuance of an RFP for property located at 230 N. Main Street (APN 028-34-001 through 028-34-094) listed as Property No. 3 on the LRPMP. One proposal was received as a result of the issuance of the RFP. On January 25, 2016, after receiving the recommendation of the Ad Hoc Committee and receiving public testimony, the Oversight Board approved the sale to the County of Santa Clara as the Successful Proposer. On January 26, 2016, the County withdrew its offer and thereafter the deposit check was returned to the County.

Thereafter the Ad Hoc Committee consulted and determined to present two alternative resolutions for the Oversight Board's consideration.

### **Alternative A**

This resolution authorizes issuance of a new RFP. The RFP has been revised as follows to enhance submittals and in keeping with the LRPMP and the issuance of the second RFP for the Alder Drive and Barber Lane property.

- (i) Has been reformatted for easier reading and convenience of Proposers.
- (ii) Clarifies language to aid potential Proposers.
- (iii) Updates statutory requirements for the sale (under SB 107 only submittal of the award to DOF is required not approval if it implements the approved Long Range Property Management Plan).
- (iv) Provides for a longer Due Diligence Period.
- (v) Original proposals must be delivered to the Successor Agency with simultaneous email copy to the Successor Agency and to Special Counsel Montoy.
- (vi) Adds text that proposed terms for the sharing of Broker's Fees may be submitted by proposers. Any Broker's Fees agreement will be submitted to the Oversight Board's for its approval as part of a recommended award to a Successful Proposer.
- (vii) Under reserved rights, includes language that the terms and conditions of a proposal may be negotiated with one or more Proposers.

As with the prior RFP process, the plan is for wide distribution of the RFP as that is in the best interest of the Successor Agency and Taxing Entities. In that regard, upon the Oversight Board's approval of this resolution, the Successor Agency and the County of Santa Clara will cause the distribution of the RFP. The RFP will also be posted on the Oversight Board and Successor Agency websites. The Ad Hoc Committee and Successor Agency will review proposals received and make recommendations to the Oversight Board.

## **Alternative B**

Based on the unsuccessful RFP and for reasons which Member Polanski and others will articulate at the Board Meeting, this alternative resolution seeks amendment of the Long Range Property Management Plan. This resolution is very similar to the one presented at the September 2015 meeting.

### **BOARD COUNSEL'S BRIEF SUMMARY OF DISSOLUTION LAW**

#### **1. Definition of "Governmental Use" under Dissolution Law**

At this time, there is no evidence that the definition of Governmental Use under the Dissolution Law has been met or can be met. Health and Safety Code Section 34181 provides:

The oversight board shall direct the successor agency to do all of the following:

(a)(1) Dispose of all assets and properties of the former redevelopment agency; provided that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, parking facilities and lots dedicated solely to public parking, and local agency administrative buildings, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset. (emphasis added)

This language has been critical to designation of property for governmental use under the Dissolution Law.

#### **2. No Authority for Amending Long Range Property Plan Under Current Facts**

The Board should note that the California Department of Finance approved the Long Range Property Management Plan on March 9, 2015. Per the Dissolution Law, as of that date, the Long Range Property Management Plan "shall govern, and supersede all other provisions relating to, the disposition and of the real property assets of the former redevelopment agency." (Health and Safety Code Section 34191.3)

Nothing in the Dissolution Law provides for an amendment of the Long Range Property Management Plan as envisioned by B. Subsection (b) of Health and Safety Code Section 34191.3 provides the only statutory authority for amendment of the Long Range Property Management Plan.

Subsection (b) of Health and Safety Code Section 34191.3 provides:

If the department [DOF] has approved a successor agency's long-range property management plan prior to January 1, 2016, the successor agency may amend its long-range property management plan once, solely to allow for retention of real properties that constitute "parking facilities and lots dedicated solely to public parking" for governmental use pursuant to Section 34181. An amendment to a successor agency's long-range property management plan under this subdivision shall be submitted to its oversight board for review and approval pursuant to Section 3479, and any such amendment shall be submitted to the department prior to July 1, 2016. (emphasis added)

Based on the foregoing the Long Range Property Management Plan may not be amended.



**RESOLUTION NO. 86 [Alternative A]**

**RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE FORMER MILPITAS REDEVELOPMENT AGENCY APPROVING A NEW REQUEST FOR PROPOSALS (RFP) PROCESS FOR THE SALE OF PROPERTY LOCATED AT 230 NORTH MAIN STREET (APN 028-34-001 THROUGH APN 028-34-094), MILPITAS, CALIFORNIA AND LISTED ON THE LONG RANGE PROPERTY MANAGEMENT PLAN AS PROPERTY NO. 3.**

**WHEREAS**, the Oversight Board to the RDA Successor Agency for the City of Milpitas (“Oversight Board”) has been established to direct the RDA Successor Agency for the City of Milpitas (“Successor Agency”) to take certain actions to wind down the affairs of the Redevelopment Agency in accordance with the California Health and Safety Code; and

**WHEREAS**, among the duties of successor agencies under the Dissolution Act is the preparation of a long-range property management plan (LRPMP) that addresses the disposition and use of the real properties of the former redevelopment agency for consideration by a local oversight board and California Department of Finance (“DOF”); and

**WHEREAS**, the LRPMP for the Successor Agency was approved by the Oversight Board on February 10, 2015, and by DOF on March 9, 2015; and

**WHEREAS**, the LRPMP identifies properties as assets of the Successor Agency that the Successor Agency is to sell; and

**WHEREAS**, the Oversight Board approved an Appraisal Contract with Valbridge Property Advisors on December 2, 2014, which provides for appraisal of properties listed on the LRPMP; and

**WHEREAS**, the Oversight Board has authorized a Request for Proposals (“RFP”) process as set forth in the LRPMP to solicit offers for the disposition of the properties; and

**WHEREAS**, at its meeting of April 8, 2015, the Oversight Board designated an Ad Hoc Committee of the Board to oversee the RFP process and present RFPs to the Oversight Board for approval; and

**WHEREAS**, at its meeting of September 14, 2015, the Oversight Board Ad Hoc Committee recommended and the Oversight Board adopted Resolution 67 which approved the issuance of an RFP for Property No. 3 on the LRPMP located at 230 N. Main Street (APN 028-34-001 through APN 028-34-094, Milpitas, CA; and

**WHEREAS**, one proposal was received as a result of the issuance of the RFP and on January 25, 2016, after receiving the recommendation of the Ad Hoc Committee and receiving public testimony, the Oversight Board approved the sale to the County of Santa Clara as the Successful Proposer; and

**WHEREAS**, on January 26, 2016, the County withdrew its offer and thereafter the deposit check was returned to the County; and

**WHEREAS**, a new RFP for the sale of 230 N. Main Street, Milpitas, CA has been prepared for the Oversight Board's consideration.

**NOW, THEREFORE**, the Oversight Board of the former Milpitas Redevelopment Agency resolves as follows:

**Section 1.** The recitals set forth above are true and correct and are incorporated herein by reference.

**Section 2.** The Oversight Board approves issuance of the Request for Proposals attached as Exhibit A for property located at 230 North Main Street (APN 028-34-001 through APN 028-34-094), Milpitas, California, which is listed on the LRPMP as Property No. 3. The Chair of the Oversight Board, the Successor Agency, and Oversight Board Counsel may collectively make technical, clerical, and formatting edits to the RFP.

**PASSED AND ADOPTED** this 14<sup>th</sup> day of June, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

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Barbara Crump  
Oversight Board Secretary

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Mike McInerney  
Board Chair

**EXHIBIT A TO RESOLUTION NO. 86**

**REQUEST FOR PROPOSALS (RFP)**  
**SUCCESSOR AGENCY OF THE FORMER**  
**REDEVELOPMENT AGENCY OF**  
**THE CITY OF MILPITAS**

**Sale of Real Property**  
**230 N. Main Street**  
**Milpitas, CA 95035**

**APN 028-34-001 through 028-34-094**  
**1.609 acres of vacant land**

**Proposals due NLT 5:00 P.M., PST, September 21, 2017**

**230 N. Main Street  
APN 028-34-001 through 028-34-094  
Milpitas, California 95035**

## **INTRODUCTION**

This is a second Request for Proposals (RFP) by the Successor Agency to the Redevelopment Agency of the City of Milpitas ("Successor Agency") inviting proposals from qualified Proposers to purchase property located in the City of Milpitas at 230 N. Main Street (APN 028-34-001 to 028-34-094) ("Site"). No proposals were received from the first issuance. Among other things, this RFP clarifies language, updates statutory requirements for the sale, reduces the deposit amount, and provides for a longer Due Diligence Period. A Site View and current zoning depiction of the Property are attached at the end of this RFP as "Attachment A."

The former Redevelopment Agency of the City of Milpitas owned the property until the Redevelopment Agency was dissolved pursuant to Assembly Billx1 26 ("ABx1 26"). The Successor Agency is now responsible for disposing of the property which was included in the Successor Agency's Long Range Property Management Plan.

## **DUE DATE AND TIME**

Proposals are due not later than **TUESDAY, SEPTEMBER 21, 2017, AT 5 P.M.**

## **BACKGROUND**

Milpitas is a general law city incorporated in 1954 and has grown from the "Little Cornfields" then to a major city with over 70,000 people now. The City is conveniently located beside Silicon Valley's east foothills, where there are endless opportunities, civic pride and the ease of 'one-stop' living.

The Site is located within the former Milpitas Redevelopment Area and was owned by the former Redevelopment Agency, which purchased the property on August 20, 2010.

ABX1 26 amended by AB 1484 and SB 107 (collectively the "Dissolution Law") and codified in the California Health & Safety Code dissolved redevelopment agencies in California as of February 1, 2012. Pursuant to the Dissolution Law, all non-housing properties owned by the Redevelopment Agency were transferred to the Successor Agency. The Successor Agency addressed the disposition of the subject property in its Long Range Property Management Plan ("LRPMP") which was approved by the California Department of Finance on March 9, 2015. The Successor Agency is now seeking a qualified Proposer to purchase the Site.

The Dissolution Law provides for oversight of Successor Agency wind-down activities by an Oversight Board comprised of seven members. The Successor Agency will review the proposals and transmit its recommendations to the Oversight Board. An Ad Hoc

Committee of the Oversight Board will also review the proposals and make recommendations to the Oversight Board. The Oversight Board will hold a public meeting to consider recommendations and will take action on the recommendations. The Oversight Board's action on approval of a proposal may be submitted to the California Department of Finance.

## **PROPOSAL REQUIREMENTS**

1. The Successor Agency is seeking proposals from qualified Proposers to purchase the Site at not less than fair market value.
2. Completing the property sale in a timely manner is especially important to the Successor Agency and the Oversight Board.
3. Closing shall be on an all-cash basis, not later than one hundred eighty (180) days following approval of the Proposer's offer by the Oversight Board.
4. Sale of the property is to be done expeditiously and in a manner aimed at maximizing the value to the taxing entities.
5. No warranty, express or implied, other than clean title will be provided by Seller.
6. Proposals are required to meet the requirements of this RFP.

## **PROPERTY DATA**

1. The Site is located at 230 N. Main, Milpitas, California, 95035.
2. The Site consists of Assessor Parcel Numbers 028-34-001 through 028-34-94 and is approximately 1.609 acres in size.
3. The Site is zoned "Park and Open Space" by the City of Milpitas. Proposers shall familiarize themselves with all City of Milpitas' zoning and entitlement issues relating to the site, and make an independent determination of whether the site can be developed for the purpose intended by the Proposer.
4. Zoning and Planning Ordinances are found in the Milpitas Municipal Code and which, along with the General Plan, may be accessed at <http://www.ci.milpitas.ca.gov/government/planning/default.asp>.

## **MATERIALS REQUIRED TO BE SUBMITTED**

1. The prospective Proposer shall:
  - Submit one (1) original mailed or delivered Proposal together with the attached original Cashier's Check for the Deposit (described below) to:

Name to be filled in  
Position title to be filled in  
City of Milpitas



455 East Calaveras Boulevard  
Milpitas, CA 95035-5479

**AND the prospective Proposer shall also:**

- Simultaneously submit an emailed copy of the Proposal with a copy of the Cashier's Check for the Initial Deposit as follows:
  - To \_\_\_\_\_ at \_\_\_\_\_ **AND**
  - To Hilda Cantú Montoy, Oversight Board Counsel at:  
[hildac@montoylaw.com](mailto:hildac@montoylaw.com).

In order to be considered responsive, the mailed and/or delivered copy and check and the e-mailed copies must all be received not later than 5:00 PM on August 22, 2017. Proposers are encouraged to submit their proposals early so as not to risk unanticipated delays that could invalidate their offer and to utilize delivery confirmation services.

**All Proposals should include the following sections in the order enumerated below:**

**2. PURCHASE PRICE AND FINANCIAL CAPACITY**

The Proposal shall include the following information:

- a. An all-cash purchase price offer and information supporting the offer.  
*Note: Per Dissolution Law, the property must be sold at not less than fair market value.*
- b. Proof of the Proposer's financial capacity to purchase the property and readiness to proceed.
- c. Proposer Information
  - (i) Name, address, phone and fax numbers for the lead Purchasing Entity (e.g., corporation, joint venture, limited partnership, etc.) and date of legal establishment.
  - (ii) Name, title, address, phone and fax numbers, and email address of the person designated as the Primary Contact for the Purchasing Entity.
  - (iii) Other relevant information responsive to this RFP.

**3. TERMS AND CONDITIONS**

The Proposal shall include:

- a. Acceptance of the requirements and the terms and conditions of sale set forth in this RFP.
- b. Deposit: A deposit of fifty thousand dollars (\$50,000) in the form of a Cashiers' Check shall be attached to the written offer, made out to the "Successor Agency to the Milpitas Redevelopment Agency." No other form of a deposit will be accepted. Only the Successful Proposer's check will be deposited. All other Deposit Checks will be returned to the respective Proposer uncashed.
- c. Within ten (10) days of approval by the Oversight Board, the Successful Proposer shall execute a Purchase and Sale Agreement for the Property reflecting the terms approved by the Oversight Board which shall be in substantial conformance to that attached hereto. The Purchase and Sale Agreement shall provide for a ninety (90) day Due Diligence Period. The Due Diligence Period shall commence upon full execution of the Purchase Sale Agreement by the parties.
- d. Within ten (10) business days from the execution of the Purchase and Sale Agreement, the Successful Proposer will be required to increase the deposit to ten percent (10%) of the purchase price.
- e. The Deposit shall be refunded upon notification by the Successful Proposer within the ninety (90) days of the Due Diligence Period that it is cancelling the contract.
- f. Upon release of the Due Diligence Contingency, if the Successful Proposer has not cancelled the contract by that date, the DEPOSIT shall be non-refundable. If the Purchase and Sale Agreement is not cancelled by the Successful Proposer, the Proposer will be responsible for purchasing the Site on an all cash basis with closing to occur not later than one hundred eighty (180) days following approval of the Proposer's offer by the Oversight Board.

NOTE: Proposals may include a proposal for the sharing of Broker's Fees between the Successor Agency and the Successful Proposer (Buyer). Any potential sharing will be solely between the Successful Proposer and the Successor Agency as approved by the Oversight Board. There is not and will not be any privity of contract between the Successor Agency and any broker.

## **SELECTION CRITERIA**

All statements and numbers submitted in response to this RFP will be reviewed and evaluated by the Successor Agency and the Oversight Board. It is anticipated that the Oversight Board will make its determination as to the Successful Proposer within thirty (30) days after the proposals are received.

Proposals for this Site will be evaluated on completeness, the purchase price, and whether they meet the requirements set forth in this RFP.



## **RIGHTS RESERVED**

The Successor Agency and Oversight Board retain the right to:

- Reject any and all proposals;
- Reject conditional or incomplete proposals or any proposal containing alterations of form or additions not called for, or irregularities of any kind;
- Determine which proposal, if any, is the best;
- Waive any irregularity in any proposal;
- Withdraw any and all of the described real property from the market;
- Approve the final Purchase and Sale Agreement; and
- Negotiate terms and conditions of a proposal with one or more Proposer.

Issuance of this RFP does not commit the Successor Agency or Oversight Board to select a proposer, pay any costs incurred in the preparation of a response to the RFP, award any contract or rights, or take any further actions regarding sale of the Property.

## **QUESTIONS; CORRESPONDENCE**

Questions regarding this RFP shall be submitted in writing as follows:

- Hilda Cantú Montoy, Oversight Board Special Counsel, is the contact for questions regarding the RFP and RFP process. Her email address is Email: [hildac@montoylaw.com](mailto:hildac@montoylaw.com).
- Bradley Misner, City of Milpitas Planning and Neighborhood Services Director, is the contact for land use and development-related questions in the City of Milpitas. His email address is [bmisner@ci.milpitas.ca.gov](mailto:bmisner@ci.milpitas.ca.gov).



## ATTACHMENT A

Site View and Zoning Depiction

(next two pages)

**RESOLUTION NO. 86 [Alternative B]**

**RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR  
AGENCY OF THE FORMER MILPITAS REDEVELOPMENT AGENCY  
AMENDING THE LONG RANGE PROPERTY MANAGEMENT PLAN TO  
AUTHORIZE RETENTION OF PROPERTY NO. 3 LOCATED AT 86 N.  
MAIN STREET, MILPITAS, CALIFORNIA FOR GOVERNMENTAL USE.**

**WHEREAS**, the Oversight Board of the RDA Successor Agency for the City of Milpitas (“Oversight Board”) has been established to direct the RDA Successor Agency for the City of Milpitas (“Successor Agency”) to take certain actions to wind down the affairs of the Redevelopment Agency in accordance with the California Health and Safety Code; and

**WHEREAS**, among the duties of the successor agencies under the Dissolution Act is the preparation of a Long-Range Property Management Plan (LRPMP) that addresses the disposition and use of the real properties of the former redevelopment agency for consideration by a local oversight board and California Department of Finance (“DOF”); and

**WHEREAS**, the LRPMP for the Successor Agency was approved by the Oversight Board on February 10, 2015, and by DOF on March 9, 2015; and

**WHEREAS**, the LRPMP provides that 230 N. Main Street (APN 028-34-001) which is designated as Property No. 3 should be disposed by sale; and

**WHEREAS**, the Oversight Board has heard testimony from residents of the City of Milpitas concerning long existing plans to build a park on the site and has reviewed the surrounding land uses in close proximity to Property No. 3; and

**WHEREAS**, the Oversight Board sees the benefits to the community regionally with the improvements of a regional library, medical health clinic, and senior housing for Property No. 3 be retained for a community park to benefit the needs of these improved facilities and the surrounding residential properties; and

**WHEREAS**, the Oversight Board understands the need regionally for open space to ensure a high quality of life for residents, the environment, and a long-term vision for the State of California to provide for children; and

**WHEREAS**, the City of Milpitas has design plans recommended by the Milpitas Parks, Recreation, and Cultural Resources Commission and included funding in the City of Milpitas Capital Improvement Plan; and

**WHEREAS**, at its meeting of September 14, 2015, the Oversight Board Ad Hoc Committee recommended and the Oversight Board adopted Resolution 67 which approved the issuance of an RFP for Property No. 3 on the LRPMP located at 230 N. Main Street (APN 028-34-001 through APN 028-34-094, Milpitas, CA; and

**WHEREAS**, one proposal was received as a result of the issuance of the RFP and on January 25, 2016, after receiving the recommendation of the Ad Hoc Committee and receiving public testimony, the Oversight Board approved the sale to the County of Santa Clara as the Successful Proposer; and

**WHEREAS**, on January 26, 2016, the County withdrew its offer and thereafter the deposit check was returned to the County; and

**WHEREAS**, based on the foregoing, the Oversight Board believes Property No. 3 should be retained for Governmental Use and not sold as required by the Long Range Property Management Plan.

**NOW, THEREFORE**, the Oversight Board of the former Milpitas Redevelopment Agency resolves as follows:

Section 1. The recitals set forth above are true and correct and are incorporated herein by reference.

Section 2. The Long Range Property Management Plan is amended to authorize retention of Property No. 3 for Governmental Use.

**PASSED AND ADOPTED** this 14<sup>th</sup> day of June, 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

ATTEST:

APPROVED:

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Barbara Crump  
Oversight Board Secretary

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Mike McInerney  
Board Chair

## **OVERSIGHT BOARD STAFF REPORT**

**MEETING DATE: June 14, 2017**

### **ITEM VI:**

#### **RECOMMENDED ACTION:**

That the Oversight Board review this matter and consider adoption of Resolution Approving the Second Amendment to Agreement with Santa Clara County for Administrative Services.

#### **BACKGROUND**

The Oversight Board may, in furtherance of its duties under the Dissolution Law, enter into a contract to procure administrative support. The County and the Oversight Board entered into an Administrative Services Agreement dated November 12, 2012 ("Agreement") and a First Amendment thereto on October 8, 2013, for administrative support services related to the dissolution of the former Milpitas Redevelopment Agency. In order to continue receiving administrative support from the County, the Agreement needs to be extended.

The proposed resolution approves a Second Amendment to Administrative Services Agreement between the County of Santa Clara and the Oversight Board to extend the term. All other terms and conditions remain the same.

**RESOLUTION NO. 87**

**RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR  
AGENCY OF THE FORMER MILPITAS REDEVELOPMENT AGENCY  
APPROVING A SECOND AMENDMENT TO AGREEMENT WITH SANTA  
CLARA COUNTY FOR ADMINISTRATIVE SERVICES**

**WHEREAS**, the California State Legislature enacted Assembly Bill x1 26 to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000, et seq.), as amended by Assembly Bill 1484, Statutes of 2012, enacted June 27, 2012 (the "Dissolution Law"); and

**WHEREAS**, pursuant to Health and Safety Code Sections 34179(n)-(o), the Oversight Board may, in furtherance of its duties under the Dissolution Law, enter into a contract to procure administrative support; and

**WHEREAS**, the County and the Oversight Board entered into an Administrative Services Agreement dated November 12, 2012 ("Agreement") and a First Amendment thereto on October 8, 2013, for administrative support services related to the dissolution of the former Milpitas Redevelopment Agency; and

**WHEREAS**, in order to continue receiving administrative support, the parties desire to amend the Agreement to extend the term.

**NOW, THEREFORE**, the Oversight Board resolves as follows:

**Section 1.** The recitals set forth above are true and correct and are incorporated herein by reference.

**Section 2.** A Second Amendment to Administrative Services Agreement between the County of Santa Clara and the Oversight Board in substantially the form attached as Exhibit A is approved.

**PASSED AND ADOPTED** this 14<sup>th</sup> day of June 14, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

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Barbara Crump  
Oversight Board Secretary

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Mike McNerney  
Board Chair

**SECOND AMENDMENT TO  
ADMINISTRATIVE SERVICES AGREEMENT  
BETWEEN THE COUNTY OF SANTA CLARA  
AND THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY  
OF THE FORMER MILPITAS REDEVELOPMENT AGENCY**

**THIS SECOND AMENDMENT** to Administrative Services Agreement is made and entered into as of \_\_\_\_\_, 2017, by and between the County of Santa Clara, a political subdivision of the State of California (“County”), and the Oversight Board of the Successor Agency of the Former Milpitas Redevelopment Agency, a local entity established under Health and Safety Code section 34179 (“Oversight Board”).

**WHEREAS**, the County and the Oversight Board entered into an Administrative Services Agreement dated November 12, 2012 (“Agreement”), for administrative support services related to the dissolution of the former Milpitas Redevelopment Agency; and

**WHEREAS**, the County and the Oversight Board entered into a First Amendment to Administrative Services Agreement dated October 8, 2013, to extend the term through June 30, 2016, and increase the maximum compensation; and

**WHEREAS**, the parties desire to amend the Agreement to extend the term, as provided herein.

**NOW THEREFORE**, for good and valuable consideration the receipt and adequacy which are hereby acknowledged, the parties agree as follows:

1. Section 2 of the Agreement shall be replaced in its entirety by the following:

This Agreement is effective as of November 12, 2012, and will continue in full force and effect until June 30, 2018, unless terminated earlier in accordance with Section 4.

2. Except as modified by this Second Amendment all terms and conditions of the Agreement shall remain in full force and effect.

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**IN WITNESS WHEREOF**, the County and the Oversight Board have caused this Agreement to be duly executed.

**COUNTY OF SANTA CLARA**

**OVERSIGHT BOARD OF THE  
SUCCESSOR AGENCY OF THE  
FORMER MILPITAS  
REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Dave Cortese, President  
Board of Supervisors  
Date:

By: \_\_\_\_\_  
Michael McInerney, Chair  
Date:

**ATTEST**

By: \_\_\_\_\_  
Megan Doyle, Clerk  
Board of Supervisors  
Date:

**APPROVED AS TO FORM AND  
LEGALITY**

By: \_\_\_\_\_  
Danielle Goldstein  
Deputy County Counsel